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MONTANA LEGISLATIVE HISTORY

Chapter 580 19 93

Bill H 688 S _____ Original bill & history ____C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Mar 24	✓ C	Hearing Date(s)	Apr 06	✓ C
	Mar 26	✓ C		Apr 12	✓ C
		____C			____C
		____C			____C
Date Out	Mar 26	✓ C		Apr 12	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HB 686 INTRODUCED BY DRISCOLL, ET AL.

EXPAND WORKERS' COMPENSATION PAYROLL TAX BASE

BY REQUEST OF HOUSE SELECT COMMITTEE ON WORKERS' COMPENSATION

3/18	INTRODUCED		
3/18	REFERRED TO WORKERS' COMPENSATION SELECT COMMITTEE		
3/18	FIRST READING		
3/18	FISCAL NOTE REQUESTED		
3/19	HEARING		
3/22	FISCAL NOTE RECEIVED		
3/22	FISCAL NOTE PRINTED		
3/26	MISSED TRANSMITTAL DEADLINE		

HB 687 INTRODUCED BY ELLIOTT, ET AL.

ALLOCATE PERCENTAGE OF COAL TAX TO DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR CERTAIN STATE PARK USE; PROVIDE APPROPRIATION

3/19	INTRODUCED		
3/19	REFERRED TO TAXATION		
3/19	FIRST READING		
3/19	FISCAL NOTE REQUESTED		
3/23	FISCAL NOTE RECEIVED		
3/23	FISCAL NOTE PRINTED		
3/24	HEARING		
3/26	COMMITTEE REPORT—BILL PASSED		
3/29	2ND READING DO PASS MOTION FAILED	49	49
3/29	RECONSIDERED PREVIOUS ACTION	64	36
3/29	ON MOTION RULES SUSPENDED TO ALLOW 2ND AND 3RD READING OF BILL ON 71ST LEGISLATIVE DAY		
3/30	2ND READING PASSED	65	34
3/30	3RD READING PASSED	66	33
	TRANSMITTED TO SENATE		
4/01	FIRST READING		
4/01	REFERRED TO TAXATION		
4/07	HEARING		
4/08	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/12	2ND READING CONCURRED	36	13
4/13	3RD READING CONCURRED	35	14
	RETURNED TO HOUSE WITH AMENDMENTS		
4/15	2ND READING AMENDMENTS CONCURRED	84	15
4/16	3RD READING AMENDMENTS CONCURRED	69	30
4/21	SIGNED BY PRESIDENT		
4/21	SIGNED BY SPEAKER		
4/22	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR CHAPTER NUMBER 536 EFFECTIVE DATE: 07/01/93		

HB 688 INTRODUCED BY GRINDE, ET AL.

PROVIDE THAT EXTENDED DEPTH AUGER METHOD OF MINING COAL IS DISTINCT MINING METHOD FOR TAXATION PURPOSES

3/19	INTRODUCED
3/19	REFERRED TO TAXATION
3/19	FIRST READING
3/19	FISCAL NOTE REQUESTED
3/23	FISCAL NOTE RECEIVED

3/24	HEARING		
3/24	FISCAL NOTE PRINTED		
3/26	COMMITTEE REPORT—BILL PASSED		
3/29	2ND READING PASSED	69	31
3/30	3RD READING PASSED	65	33
	TRANSMITTED TO SENATE		
4/01	FIRST READING		
4/01	REFERRED TO TAXATION		
4/06	HEARING		
4/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/14	2ND READING CONCURRED	47	1
4/15	3RD READING CONCURRED	45	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	76	19
4/20	3RD READING AMENDMENTS CONCURRED	70	28
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/24	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 580		
	EFFECTIVE DATE: 07/01/93		

HB 689 INTRODUCED BY FISHER, ET AL.

CREATE SPECIAL REVENUE ACCOUNTS FOR ADMINISTRATION OF INCOME TAX CHECKOFF PROGRAMS

BY REQUEST OF JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION

3/19	INTRODUCED		
3/19	REFERRED TO APPROPRIATIONS		
3/19	FIRST READING		
3/19	FISCAL NOTE REQUESTED		
3/24	FISCAL NOTE RECEIVED		
3/24	FISCAL NOTE PRINTED		
3/29	HEARING		
3/30	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/31	2ND READING PASSED	86	12
4/01	3RD READING PASSED	89	0
	TRANSMITTED TO SENATE		
4/02	FIRST READING		
4/02	REFERRED TO FINANCE & CLAIMS		
4/13	HEARING		
4/14	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/15	2ND READING CONCURRED	34	13
4/15	3RD READING CONCURRED	35	14
	RETURNED TO HOUSE WITH AMENDMENTS		
4/16	2ND READING AMENDMENTS CONCURRED	76	22
4/19	3RD READING AMENDMENTS CONCURRED	78	22
4/22	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 581		
	EFFECTIVE DATE: 04/28/93		

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0688, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act including the extended depth auger method of mining coal as a type of underground mining for purposes of taxation; defining the extended depth auger method of mining for taxation purposes; and providing an effective date.

ASSUMPTIONS:

1. No coal mine operators in Montana will use the extended depth auger method of mining coal during the biennium (MDOR).
2. If coal is mined by this method, it would be coal that would be uneconomical to strip mine.

FISCAL IMPACT:

There is no impact to state revenues or expenditures under the proposed legislation during the biennium.

TECHNICAL NOTES:

The proposed legislation would permit different areas of a single coal mining site to be classified as both an underground mine and a strip mine for taxation purposes. Such a dual classification would make the monitoring of coal production for taxation purposes extremely difficult and costly, as the department would have no means of determining the share of total production coming from the two different mining methods.

Dave Lewis 3-24-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

3-24-93

LARRY HAL GRINDE, PRIMARY SPONSOR DATE

Fiscal Note for HB0688, as introduced

HB 688

HEARING ON HOUSE BILL 688

Opening Statement by Sponsor:

REP. LARRY GRINDE, HD 30, Lewistown, said the bill includes the extended depth auger method of mining coal as a type of underground mining for taxation purposes. Strip mining ceases when the headwall is hit and it no longer becomes feasible to remove the berm. At this point, the extended depth auger machines are brought in, bore into the seam horizontally, and remove the remaining coal. He had several concerns about the bill, one of which was environmental protection. He said he is convinced it is environmentally sound because the strip mining has already occurred and there is no further surface destruction on land that will reclaimed. Another concern was for Montana jobs. If this method of mining is used, each machine will result in employment for about 15 people. Revenue concerns are addressed because this is a revenue enhancement measure. The coal that will be mined by this method is coal that would not be extracted under strip mining procedures; therefore, there will be additional revenue for the state.

Surface mining is taxed at 15%; however, it is not feasible to use the extended auger method if it is taxed at 15%. Because the auger method cost of extraction is two to three times that of surface mining, the tax has been set at 4%.

Proponents' Testimony:

Reas Madsen, President, Coal Development Corporation, Montana and Colorado, presented his testimony in support of the bill. **EXHIBIT 1**

Jim Mockler, Executive Director, Montana Coal Council, expressed support for the bill. He said there will be no revenue produced for some time as it will be a long process getting the pre-work, licensing, reclamation plans, and final procedures in place and the actual mining begun.

Gary Willis, Western Energy, said this is a way to recover coal that would not otherwise be recovered. He said it would only be used when the strip mine hits the final headwall at the end of the strip mining process.

Opponents' Testimony: There were no opponents.

Questions From Committee Members and Responses:

REP. ELLIOTT asked what size auger would be used.

Mr. Madsen said they usually use a 7 foot auger, but they are in the process of determining what size would be best for the Montana operations.

REP. ELLIOTT asked how deep or how far they would drill.

Mr. Madsen replied they will go from 300 feet to 700 feet.

REP. ELLIOTT asked if they mine the whole seam.

Mr. Madsen said they do not mine the entire seam. Depending on the size of the seam, they leave various sized segments in order to keep the headwall stable and intact. He said they use computer generated studies to analyze the strength of the overburden and the hole to determine the correct stabilization of the headwall.

REP. ELLIOTT asked what other states employ this method of mining and if a table of differing costs for overhead, surface, underground, and auger methods of mining would be available.

Mr. Madsen said the auger method is used in Colorado, Texas, Wyoming, and a number of eastern states. He said the costs vary widely in different states and different areas of the United States.

REP. HANSON asked if the 4% rate is the same as the underground rate in Roundup.

Mr. Mockler said it is the same.

REP. McCAFFREE asked if this is the same as the Bull Mountain Project.

Mr. Madsen said it is not. Bull Mountain is an underground mine and the extended auger would only be used on surface mining at the very end of the process.

REP. McCAFFREE said he was concerned that there would be no study of the water aquifers after the work is complete.

Mr. Madsen said the mine regulatory people oversee this area and would pass judgement on the state of the aquifers. He said he was not aware of any problems in any other areas.

REP. DOLEZAL asked if the people that would be hired would be brought in or hired in Montana. He also asked how much potential there is for mining and how long it would take to set up the operation.

Mr. Madsen said a supervisor would be brought in with the machine and the other workers would be hired locally. It is anticipated that 15 to 20 million tons of additional coal would be mined. The goal is to be operational by 1994.

REP. RANEY asked that before any action is taken on the bill that some unbiased non-industry numbers be obtained to determine if the costs are higher than surface strip mining.

Closing by Sponsor:

REP. GRINDE said the thinks this is a win/win situation if the Legislature will lower the rate to make it feasible for this type of mining to operate in the state. There are no environmental problems, and more employment and tax revenue for the state.

HEARING ON HOUSE BILL 687

Opening Statement by Sponsor:

REP. JIM ELLIOTT, HD 51, Trout Creek, said HB 687 temporarily allocates a percentage of the coal severance tax interest to a special revenue account for use by the Department of Fish, Wildlife and Parks for the stabilization and preservation of historic and cultural sites within the state park system. The funds that are currently going into the Parks Trust are diverted to funding the stabilization and preservation of the sites. This was done in 1991 because there were no other funds available and HB 687 simply extends the process for an additional two years. He reviewed the projects currently being funded and those that will be funded by HB 687. **EXHIBITS 2 and 3** He said there would be a loss of interest to the Parks Trust of $65,000 over the biennium.

Proponents' Testimony:

SEN. SWYSGOOD, Madison and Gallatin Counties, said Bannock is in his area and he has worked with the people who are restoring and maintaining that area. There is significant tourist interest in the area and the funding should be continued. It is in the best interests of the state and the people of Montana to maintain these parks and develop them so that they are protected and enhanced.

Pat Graham, Department of Fish, Wildlife, and Parks, presented his testimony in support of the bill. **EXHIBITS 2, 3, and 4**

Keith Colbo, Montana Tourism Coalition, said the decision to divert the interest in 1991 was a wise and appropriate decision. The proposed two year extension is equally appropriate and necessary.

Marilyn Wessel, Montana State University, Museum of the Rockies, presented a letter in support of the bill from Arthur Wolf, Director of the Museum of the Rockies. **EXHIBIT 5**

Spencer Hegstad, County Commissioner, Beaverhead County, said the first territorial capital, Bannack, is a major tourism attraction. It is slowly deteriorating and is in need of stabilization to prevent any further loss of buildings. Emergency work has been started the past two years, but there are

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 3/24/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.

EXHIBIT 1
DATE 3/24/93
HB #688

MY NAME IS REAS MADSEN AND I AM PRESIDENT OF COAL DEVELOPMENT CORPORATION WITH OFFICES IN MONTANA AND COLORADO.

I AM APPEARING THIS MORNING IN SUPPORT HB 688 CONCERNING COAL PRODUCED BY AUGER MINING.

AUGER MINING OCCURS WHEN A SURFACE MINE REACHES ITS ECONOMIC LIMIT. ALL SURFACE MINES REACH SEVERAL ECONOMIC LIMITS (FINAL HIGHWALLS) THROUGHOUT THE LIFE OF THE MINE.

THE ECONOMIC LIMIT IS REACHED WHEN IT BECOMES MORE COSTLY TO REMOVE THE 150 TO 200 FEET OF OVERBURDEN FROM THE COAL THAN IS JUSTIFIED BY THE VALUE OF THE COAL SEAM LYING UNDER IT.

AUGER MINING RECOVERS COAL FROM THE FINAL HIGHWALL BY BORING LARGE SHAFTS OR HOLES INTO THE DEPOSIT.

THERE ARE 8 MAJOR BENEFITS TO THE STATE OF MONTANA FROM THE PASSAGE OF THIS BILL:

1. THE COAL RECOVERED BY AUGER MINING IS COAL THAT WOULD OTHERWISE NOT BE MINED AND WOULD BE LOST FOREVER. THE RECOVERABLE COAL RESOURCES OF MONTANA ARE THEREFORE INCREASED.

2. THE SEVERANCE TAX RECEIVED FROM AUGER COAL IS TAX REVENUE THAT WOULD NOT OTHERWISE BE REALIZED.

3. THERE IS ABSOLUTELY NO ADDITIONAL SURFACE DISTURBANCE BY AUGER MINING BUT ADDITIONAL COAL IS RECOVERED FROM THE DEPOSIT.

4. AUGER MINING WILL FACILITATE AND MAKE POSSIBLE FULL UTILIZATION OF THE COAL RESOURCE, AS DICTATED BY MONTANA STATUTORY LAW.

5. AT PRESENT, THERE IS NO AUGER COAL PRODUCTION IN MONTANA. WITHOUT THIS BILL, THERE MAY NEVER BE ANY AUGER COAL PRODUCED IN MONTANA AND VALUABLE, MINABLE COAL RESOURCES OF MONTANA WILL BE WASTED AND LOST.

6. APPROXIMATELY 25 JOBS INCLUDING SUPPORT PERSONNEL ARE CREATED WITH EACH AUGER MACHINE.

7. PASSAGE OF THIS BILL WILL ALLOW MONTANA COAL TO BE MORE COMPETITIVE IN THE WORLD MARKETPLACE.

8. WITH THE PASSAGE OF THIS BILL $6 TO $10 MILLION IN ADDITIONAL SEVERANCE TAX REVENUES WILL BE GENERATED OVER THE NEXT FEW YEARS.

THERE ARE NO DETRIMENTAL EFFECTS OF THIS BILL.

IN ADDITION TO THE ABOVE, CDC IS CURRENTLY WORKING WITH MONTANA STATE UNIVERSITY ENGINEERING PERSONNEL TOWARD THE GOAL OF FUTURE TECHNOLOGICAL ADVANCES IN AUGER MINING.

HOPEFULLY, THIS WORK WILL CREATE EVEN GREATER TAX REVENUES AND JOB CREATION FOR THE STATE OF MONTANA.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

688

HOUSE TAXATION COMMITTEE BILL NO. 687

DATE 3/24/93 SPONSOR(S) GRINDE ELLIOTT

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Spencer Hegstad - Dillon	Beaverhead County Commissioner	✓	
John Barrows Dillon	Bannack Association	✓	
[illegible]	F&WP	✓	
Christy Kittredge	Beaverhead Historical Society		
Keith L. Colbo	Tourism Coalition	HB687	
Pat Graham	DFWP	HB687	
Ken Hoovestol	Mt. Snowmobile Assn. & Self	687 ✓	
Marilyn Vessel	MSU	687	
Jane Hammon	Budget Office	687	
Jim Mockler	MT Coal Council	HB688	
Gary Willis	Western Energy	H.B 688	
Reas Madsen	Coal Development Corp	HB688	
Janet Ellis	MT Audubon Leg. Fund	HB 687	
Matthew Cohn	MT Dept of Commerce	✓ HB [illegible]	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Closing by Sponsor:

SEN. DOHERTY closed saying the bill is very straightforward and is simply a clarification and simplification measure. He indicated an amendment regarding a notice provision for the timely payment of protested taxes would be a good idea. He said it would be simple enough to have it printed on the notices which are sent out by STAB and/or DOR. He said he would support such an amendment so that the bill would not have to go to conference committee.

EXECUTIVE ACTION ON HOUSE BILL 688

Motion: **REP. FOSTER MOVED HB 688 DO PASS.** HB 688 establishes a tax incentive for the extended depth auger method of mining coal.

Discussion:

REP. ELLIOTT said he is wary of granting special privileges when there is no way of estimating what the actual costs may be. He visited with Mr. Mockler of the Coal Council and called some other states to endeavor to identify some costs. He has yet to find a state that is using the extended depth auger method of coal mining. The financial overhead of mining underground coal is more than the financial overhead of strip mining. In the extended depth auger method the overburden has already been removed. The seam is exposed and the overburden does not have to be replaced. He said the only additional expense he has been able to determine is the cost of the machine which may be substantial. He felt the machine should not be much more than the drag line that is used to remove the overburden which should make the financial overhead somewhat the same.

REP. HANSON said the tax on this type of mining is the same as that on the underground mines in the Roundup area. She said this method is less destructive to the topsoil and allows for mining of the entire seam.

REP. MCCAFFREE said he was told by the representative of the company which hopes to initiate the extended auger method that the machine costs approximately $1.5 million. **REP. McCAFFREE** said his primary concern is for the water that travels through the aquifers. He said the seam should be left in place to give the water an avenue to flow through. Strip mining disturbs the water tables and there have been problems with wells and streams drying up completely. He said this method would exacerbate that problem.

REP. BOHLINGER said the extended auger method is a way of extending the life of the strip mining that would otherwise be ending. It creates more jobs, more tax revenue and contributes to the economy of the communities and the state. He said 4% of something is better than 15% of nothing and urged the Committee members to support the bill.

REP. RANEY said the Committee asked for information on this method of mining and has never received it. This is a matter of tax policy and the decision should be based on the profitability of the method. He felt there is no way to offer an 11% reduction in severance tax when there is no financial information on which to base such a decision.

REP. FOSTER said it will take a two year period to get extended auger mining started in the state. The bill is a method of "jump-starting" that process. He felt it is important to offer some assistance to developing the process in the state. In the course of two years there will probably not be that much progress and the incentive can then be reviewed by the next legislature. He pointed out that 25 jobs per machine represents a significant economic impact for the area that is being mined by the extended auger method and for the state.

REP. HANSON said she had been told by a hydrologist that a foot of coal has to be left in the seam for an aquifer. She said that may be a fairly recent decision and therefore some of the older mined areas may not have that protection.

REP. ELLIOTT said he agreed with **REP. RANEY'S** comments. He said he would like to have some concrete facts and figures before a decision is made. He felt the coal should be mined and he is favor of the creating the jobs but tax breaks should not be given away when the financial position is not clear.

REP. NELSON said he is concerned about the aquifer and jobs, also. He noted it is late in the session and felt the bill should be passed. If the information that comes in is negative, then pressure can be exerted in the Senate Taxation Committee to kill the bill.

REP. McCAFFREE said he is distressed that everyone is only concerned about the financial impact and totally ignoring the water problem. Water is the lifeblood of Montana and when it is gone, a great deal more is lost than a few seams of unrecoverable coal.

REP. ORR said at this point in Montana's economic health, jobs and economic development are critically important.

REP. FOSTER said only by offering this tax level will it even be feasible to look seriously at developing this method of mining. He said this will only be an extension of 300 - 600 feet from the strip mine and doubted that would create much more damage.

REP. TUNBY asked if strip mines have ruined the aquifers in many cases, and if so, have they tried to remedy the damage.

REP. McCAFFREE replied that most strip mines do not wreck the aquifer and they do tend to repair damage that is done. He cautioned that no amount of coal is worth the water in eastern Montana.

REP. TUNBY said that if damage is repaired from the strip mines, it would probably be repaired with the extended auger method also.

REP. ELLIOTT said coal is a non-renewable resource for the state and it is important to bargain from a position of power rather than weakness. He stressed the importance of having information in hand before decisions are made. One of the reasons the state is having money problems is because the coal tax has already been cut in half.

REP. HARPER agreed with **REP. ELLIOTT**. He said it is possible this kind of mining could replace strip mining in the future. He said it is highly unlikely that the rate will be changed in two years. Once the rate is established, it remains in place. He said more information is needed before far reaching decisions of this nature are made. He suggested referring the matter to the Revenue Oversight Committee so that a slow, well-reasoned and informed decision can be made based on state of the art information.

Motion: **REP. ELLIOTT MOVED THE 4% RATE BE AMENDED TO 10% AND NOT BE CLASSIFIED AS UNDERGROUND MINING.**

Discussion:

REP. KELLER said that a 10% rate would kill the bill.

REP. RANEY objected to the motion saying the Committee requested more information in order to make an informed decision and still has not received that information.

Motion: **REP. ELLIOTT WITHDREW THE PREVIOUS MOTION.**

Motion: **REP. HARPER MOVED TO AMEND HB 688 WITH AN EFFECTIVE DATE OF JULY 1, 1993, AND A TERMINATION DATE OF JULY 1, 1995.**

Discussion:

REP. FOSTER disagreed with the motion. He said the bill is a good idea and deserves to go through the legislative process. Changing the dates would only serve to neuter the whole bill.

REP. NELSON said Revenue Oversight could still review the bill.

REP. HARPER said that if this is a temporary statute, the information could be presented to Revenue Oversight and a case made for extending the dates.

REP. FOSTER said even if the company already has the machines, they will still have to move them here, hire people, do site surveys, and other preparatory work. They will not be interested if they can get cut off at the knees in two years.

Vote: The motion to amend failed on a tie roll call vote.

Discussion: Discussion reverted to the original Do Pass motion.

REP. HARPER said if a man comes in asks the legislature to lift a sunset provision, he will not be turned down. He said he was just trying to slow down the important decision process regarding tax policy.

CHAIRMAN GILBERT said this is a late bill, but no later than several other important bills before the Committee. In order for the bill to proceed through the process, a decision has to made today. He said if this were the last day of session, he would vote to kill the bill, but there is time enough left to make the important decisions on this bill.

Vote: **HB 688 DO PASS** motion carried on a roll call vote.

EXECUTIVE ACTION ON HOUSE BILL 687

Motion: **REP. ELLIOTT MOVED HB 687 DO PASS.**

Discussion:

REP. ELLIOTT said the bill continues the diversion of coal tax funds into the parks preservation fund. Makoshika Park, Bannack, Ulm Pishkun, and the Pictograph Cave will receive funding for preservation and maintenance. The bill extends funding for the projects from the last biennium.

CHAIRMAN GILBERT asked what would not be funded if the bill were not to pass.

Arnie Olson, Fish, Wildlife, and Parks, said if no other parks funding bill passes, such as HB 2 and HB 5, this bill would be the only means of maintaining the four sites. There would be no capital improvements, only maintenance.

CHAIRMAN GILBERT asked **Mr. Olson** to clarify what coal trust monies are being utilized for the parks funding.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 3/26/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

HOUSE STANDING COMMITTEE REPORT

March 26, 1993

Mr. Speaker: We, the committee on Taxation report that House Bill 688 (first reading copy -- white) do pass .

Signed: Bob Gilbert
Bob Gilbert, Chair

Committee Vote:
Yes 12, No 7.

681302SC.Hpf

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 3/26/93 BILL NO HB688 NUMBER

MOTION: Rep. Harper to amend HB688 with an effective date of July 1, 1993 & a termination date of July 1, 1995

NAME	AYE	NO
REP. FOSTER		✓
REP. HARRINGTON	✓	
REP. ANDERSON		✓
REP. BOHLINGER		✓
REP. DOLEZAL	✓	
REP. DRISCOLL	✓	
REP. ELLIOTT	✓	
REP. FELAND		✓
REP. HANSON		✓
REP. HARPER	✓	
REP. HIBBARD		✓
REP. KELLER		✓
REP. McCAFFREE	✓	
REP. McCARTHY	✓	
REP. NELSON		✓
REP. ORR		✓
REP. RANEY	✓	
REP. REAM	✓	
REP. TUNBY	✓	
REP. GILBERT		✓

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 3/26/93 BILL NO. HB 688 NUMBER _____

MOTION: Rep. Foster that HB688 Do Pass

NAME	AYE	NO
REP. FOSTER	V	
REP. HARRINGTON		V
REP. ANDERSON	V	
REP. BOHLINGER	V	
REP. DOLEZAL		V
REP. DRISCOLL	V	
REP. ELLIOTT		V
REP. EELAND	V	
REP. HANSON	V	
REP. HARPER		V
REP. HIBBARD	V	
REP. KELLER	V	
REP. McCAFFREE		V
REP. McCARTHY		V
REP. NELSON	V	
REP. ORR	V	
REP. RANEY		V
REP. REAM		V
REP. TUNBY	V	
REP. GILBERT	V	

increasing taxes; they are not cutting any department's budget; they are taking this out of the General Fund, putting it in a Special Fund, and raising a fee on the taxpayers of this state. This is a tax increase disguised as a fee.

Senator Eck said she agrees to an extent with Senator Stang; however, what this Committee has done for a long period of time is cut taxes year after year. If the people of Montana and the people in the Legislature aren't willing to raise taxes, they must rely on user fees. She thinks people don't object to user fees nearly as much as they object to taxes.

Senator Yellowtail said he sympathized with Senator Stang's point of view; however, if there is going to be a statutory requirement that these controls be in place, the Legislature is going to have to be able to pay for them.

The motion that HB 17 BE CONCURRED IN CARRIED 6-3 on Roll Call Vote (#1). Senator Towe will carry the bill on the Senate floor. (771204SC.Sma)

HEARING ON HB 688

Opening Statement by Sponsor:

Rep. Larry Grinde, House District 30, presented HB 688, a bill to include the Extended Depth Auger method of mining coal as a type of underground mining for purposes of taxation. He thinks this proposal is good for the State of Montana and the taxpayers. There are three main reasons he decided to present this bill: (1) He doesn't see where there would be any environmental damage because this process will be used after strip mining has occurred. (2) The process of auger mining will create jobs in the state. (3) This will create state revenues we do not have now and possibly could reap in the future. When strip mining has occurred and they reach the high wall, and it is no longer economically feasible to mine the coal that is remaining, there is a seam under the high wall. The auger mining company thinks they have the means and methods with this auger machine to bore into the seam horizontally and extract the coal that would normally not be extracted. Rep. Grinde thinks this is a win/win situation for the workers of Montana and for the coffers of the state.

Proponents' Testimony:

Reas Madsen, President of Coal Development Corporation with offices in Montana and Colorado, appeared in support of HB 688. Mr. Madsen presented his written testimony as Exhibit No. 5 to these minutes.

Rep. Jerry Driscoll, House District 92, appeared to speak in support of HB 688. Rep. Driscoll said he talked with some friends who work at Colstrip and Decker, and was informed that mining is leaving behind the edge of the seam that this auger method of mining will take out. When that amount of coal is left underground, they have to open up more ground ahead of it with a seam that is a lot thicker. There will be less surface disturbance and damage with this mining process.

Ken Williams, representing Montana Power Company, Entech and its subsidiary, Western Energy Company, spoke in favor of HB 688. Mr. Williams emphasized that while they support this bill, they have no intention of employing this technology for a number of years to come. The reason for that is this method would only be used at a surface mine when in the last task, because the costs of the auger mining are sufficiently greater than the surface mining process, and it would not be feasible until a point where the surface mining ends. His companies do not anticipate being in a position to employ this method of mining at Colstrip for at least an additional five years, but they would like to have the auger mining process as an option a number of years down the road.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe asked Mr. Madsen if he is actively seeking or pursuing a mining operation in Montana at this time. Mr. Madsen said they have had conversations with all of the coal mines in the state, and are in various stages of talks at this time.

Senator Towe asked how far underground (horizontally) the auger mining method goes into a coal seam. Mr. Madsen said right now they have the technology to go 350 to 400 feet. The work they are doing with Montana State looks very promising and has a good chance of increasing that depth to possibly 600 feet and beyond. The typical average auger mine horizontal depth would be 150 to 250 feet.

Senator Towe asked what percentage of the coal is actually obtained with this auger method. Mr. Madsen said it depends on how thick the seam is and how large a hole is drilled. The maximum, if everything is perfect, would be nearly 70%. This could go down to 20%. They try to get as high a percentage as what they can get. The percentage variation has to do with the thickness of the seam. Right now the largest hole they can cut is 7 feet. If they have a 7-foot seam and a 7-foot hole, they

will get 70%; if they have a 20-foot seam, they would stack the holes, but there is no way to get as high a percentage as they can if the seam and the hole are the same size.

Senator Towe asked if there is a 50-foot seam, what happens when they start boring holes through it; doesn't some coal come down? Is there a safety problem? Mr. Madsen said there are safety considerations. They use computer modeling to make certain that the web in between the holes, and the support pillars on the side, are large enough so that the high wall remains intact. This is not a huge problem and it is fairly easy to figure this out. He is confident this is not a risk or danger that the state shouldn't be getting into.

Senator Towe said there are some concerns in the Pittsburgh area because there are places where the ground is sinking in because of mining extractions years previous. He is concerned that there is some risk from state policy considerations, and suggested to Mr. Madsen that maybe a 10% tax, or somewhere in between 15% and 4% would be more appropriate. Mr. Madsen explained that historically, the subsidence problem that has occurred in various parts of the Eastern U.S. has not come from auger mining--it has come from underground mining where the cuts are square cuts and can range up to 30 feet wide. The auger method is a 7-foot round hole, where support pillars of about 3-foot to 4-foot on each side of each 7-foot cut are left. Subsidence is not impossible, but the likelihood of a large amount of subsidence is fairly remote. The question of a higher rate is difficult to answer. His experience has been, in talking to the mine owners, is that extended depth auger production is 2 to 3 1/2 times as expensive as surface mining, and in order for it to make economic sense for the mine, the 4% works, but he is not certain that anything greater than 4% does.

Senator Doherty asked Rep. Grinde if the underground auger method will apply to the proposed mine near Roundup. Rep. Grinde said he cannot answer that. Senator Towe responded that at the present time, underground mining is planned for the Roundup mine.

Senator Doherty suggested there could be a situation where one part of the strip mine would have one level of taxation, and in the same strip mine, there would be another level of taxation, and that might require more people to make sure the tax is applied appropriately. He asked if Rep. Grinde would support adding FTEs to the Department of Revenue (DOR). Rep. Grinde responded that the people he has talked to about this concern have indicated there would not need to be any employees added. The people with the auger method would not go in until all the strip mining force is completed. It should be very easy to separate the two methods of mining. Rep. Grinde did not see that it would take the DOR any additional staff to monitor the mining operations to make sure the two methods of mining are taxed appropriately.

Closing by Sponsor:

Rep. Grinde closed by saying he tried to research information on costs to explain a major concern about why auger mining is taken from 15% to a 4% tax rate. Rep. Grinde presented Exhibit No. 6 to these minutes which explains in part the reasoning behind the taxing difference. This article is from the DOR records. He said it costs 3 to 5 times more to auger mine that to surface mine coal. The equipment consists of a 7-foot diameter drill bit that bores 300-plus feet into a coal seam. The machine that powers the auger runs on 75 gallons of diesel fuel per hour; it is manned by 15 people. There is some expense involved in the process. Even at 4%, the bill will create good things for the State of Montana.

Rep. Grinde said he has heard questions expressed regarding ecological/hydraulic concerns. These mining companies would have to go through a permitting process, the Office of Surface Mining and Federal Organization (OSM) for permitting, and also go to the State Lands. They would be permitted like any other type of mining in the state. The environmental concerns would be addressed at that time. It will cost the Coal Development Corporation a lot of up-front money to set up an auger mining operation through leases, the permitting process, and in contracts with the coal companies. Rep. Grinde said the state would not benefit if the coal is left in the ground. He said 15% of nothing is nothing; 4% of something creates jobs and brings revenue to the State of Montana.

HEARING ON HB 640

Opening Statement by Sponsor:

Rep. Jerry Driscoll, House District 92, presented HB 640 which is a clarification bill drafted at the request of the House Taxation Committee. Rep. Driscoll said the Legislature, during a Special Session, changed the taxation of railway cars from the previous method of taxation. These are not Burlington Northern (BN) cars; they are railroad cars which are the property of leasing companies. HB 640 changes the definition of the average levy for the taxation of railroad car companies to be the average statewide rate on commercial and industrial property instead of the average applicable to fleet motor carriers. This bill comes as a result of problems with some people not paying their taxes because of protests. He believes that under this bill, these people will start paying and the taxes can be collected.

Proponents' Testimony:

Dave Woodgerd, Legal Counsel for the DOR, said HB 640 is a committee bill from the House Taxation Committee by request from the DOR. The purpose of the bill is to make sure that the railroad car property tax passed in the July, 1992, Special

ROLL CALL

SENATE COMMITTEE TAXATION DATE

NAME	PRESENT	ABSENT	EXCU
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

MOTION/VOTE:

Senator Towe moved the following proposed language be inserted on Page 4, following Line 18: "Employers are prohibited from reducing the salary or wages of any employee as a result of the contribution to the individual medical care savings account except as provided in a collective bargaining agreement." The motion CARRIED UNANIMOUSLY on oral vote. (hb067001.ajm)

MOTION/VOTE:

Senator Harp moved HB 670 BE CONCURRED IN AS AMENDED. The motion CARRIED 8-3 on Roll Call Vote (#6). (801829SC.Sma) Senator Eck will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 688

DISCUSSION:

Chairman Halligan said the Committee has some questions remaining unanswered on HB 688 relating to environmental impacts of the extended depth auger mining on aquifers and ground water, and the safety elements relating to cave-ins and subsidence. John North, Chief Legal Counsel, Department of State Lands, and Neil Harrington, Reclamation Supervisor, Coal and Uranium Bureau, Department of State Lands, were present to answer questions. Mr. Harrington prefaced his remarks with the statement that there is no experience in the state with auger mining, and any of his responses would be purely speculative. Mr. Harrington guesses that auger mining could have impacts similar to underground mining in terms of seam removal. There could be subsidence effects similar to underground mining. All this could be entirely dependent upon site-specific conditions.

Senator Brown reviewed the situation. When coal mining reaches a certain depth, it apparently becomes hard to justify economically going down further, either because of the sides sloughing in, or having too much overburden to get down to it. HB 688 would give miners an option, at a lower tax rate, of being able to use augers to tunnel into the side of the coal seam once a certain level is reached by strip mining. He asked what difference it makes in the aquifer whether there is damage done through pursuing the seam in the first instance, or from boring into the side of the seam. Mr. Harrington said strip mining up to the point of where mining is terminated could have certain impacts on ground water. Any further mining by auger mining methods could expand or broaden the impacts from what they would be if the mine company stopped strip mining at a certain level. Senator Brown thought if damage is done, it would be done by the strip mine, itself. Mr. Harrington said this is true, although in a lot of cases, a coal seam is a major aquifer and if more of the seam is removed, the potential impacts to the aquifer are increased.

Senator Harp asked Leo Berry, Intech representative, if he would venture to say that auguring is more expensive than open cut mining that is currently in progress in Rosebud County. Mr. Berry said he has had not any experience in auger mining, but Intech has looked at this mining method and has considered it in the past. They found the expense is one of the prohibiting factors. A company now thinks they have improved technology to the point where it is economically feasible. What basically takes effect is that at the end of a coal mining activity, where the overburden does get too high, a box cut remains in the highwall. They stop mining there, and the coal seam is generally the aquifer that carries the water. They would then bore back into that seam and recover as much as possible through the auger mining method. Mr. Berry said there is another law in Montana called the Coal Conservation Act where as much of the coal is supposed to be recovered as possible. What the Department would end up doing would be to balance the potential impacts of the additional auguring versus recovering as much coal as possible.

Senator Towe presented Exhibit No. 2 to these minutes, which are amendments that would split the tax rate difference 50/50 between the proposed 4% and the current tax rate of 15%. He explained the main effects of the amendments are on page 2. If the coal is under 7,000 BTU, 15% tax rate is on surface mining; 4% is the underground tax rate. His proposal is to put in 10% for extended depth auger mining which is defined in the bill. This is offered as a compromise, and pointed out there is no reduced tax rate in Wyoming or Colorado.

MOTION:

Senator Towe moved adoption of amendments to HB 688. (hb068801.ajm)

DISCUSSION:

Chairman Halligan suggested changing the percentage to 7 1/2%, which would be going 50% with the industry.

Senator Yellowtail reiterated that the economics proposed here is that the industry strip mine up to a certain point. It then becomes economical to auger mine. Senator Yellowtail said it would appear to him that the economics are very near even at that point, so to argue that there is such greater costs doesn't add up to him. He thinks 10% is no less arbitrary that 7 1/2%; but it is closer to the existing 15% proposal.

VOTE:

The vote ended in a 5-5 tie Roll Call Vote (#7). Chairman Halligan will leave the vote open until the next meeting when another vote could be taken with a full Committee present.

SUBSTITUTE MOTION:

Senator Yellowtail moved HB 688 BE TABLED.

DISCUSSION:

Senator Yellowtail said HB 688 is purely speculative. None of this mining is presently taking place in the state, and none is planned in the near future. He thinks the state can benefit by learning more about the process in the next two years, then have the 1995 Legislature take a look at it at that time.

Senator Brown said he is in mild opposition to the motion. There are people who believe auger mining would do less destruction to the aquifer, etc. Rather than have new strip mines put a scar in the Earth in some new place to get down to the coal seam, it might be a more intelligent way to use the coal, once there is a strip mine, to just auger as much coal out of it as can be extracted rather than create a whole new strip mine opening. He thinks there may be less environmental harm by a course like this than would otherwise be the case.

VOTE:

The motion FAILED 6-4 on Roll Call Vote (#8).

ADJOURNMENT

Adjournment: The meeting adjourned at 9:54 a.m.

MIKE HALLIGAN, Chair

BONNIE STARK, Secretary

NH/bjs

ROLL CALL

SENATE COMMITTEE TAXATION DATE 4-12-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

ROLL CALL VOTE #7

SENATE COMMITTEE TAXATION BILL NO. HB 688

DATE 4-12-93 TIME 8:00 A.M. P.M.

NAME	YES	NO
Sen. Brown	✓	
Sen. Doherty	✓	
Sen. Eck	✓	
Sen. Gage		✓
Sen. Grosfield		✓
Sen. Halligan		✓
Sen. Harp		✓
Sen. Stang		✓
Sen. Towe	✓	
Sen. Van Valkenburg		
Sen. Yellowtail	✓	

SECRETARY CHAIR

MOTION:

ROLL CALL VOTE #8

SENATE COMMITTEE TAXATION BILL NO. HB 688

DATE 4-12-93 TIME 8:00 (A.M.) P.M.

NAME	YES	NO
Sen. Brown		✓
Sen. Doherty	✓	
Sen. Eck		✓
Sen. Gage	✓	
Sen. Grosfield		✓
Sen. Halligan	✓	
Sen. Harp		✓
Sen. Stang		✓
Sen. Towe		✓
Sen. Van Valkenburg		
Sen. Yellowtail	✓	

Penni Elliott
SECRETARY

Mike Halligan
CHAIR

MOTION: Do Pass HB 688

Do Not Pass

SENATE TAXATION
EXHIBIT NO. 3
DATE 4-12-93
BILL NO. HB 688

Amendments to House Bill No. 688
Third Reading Copy

Requested by Senator Towe
For the Committee on Taxation

Prepared by Jeff Martin
April 8, 1993

1. Title, line 4.
Strike: "INCLUDING"
Insert: "PROVIDING THAT"

2. Title, line 5.
Strike: "AS"
Insert: "IS"
Strike: "TYPE"
Insert: "DISTINCT METHOD"
Strike: "UNDERGROUND"

3. Title, line 7.
Following: "PURPOSES;"
Insert: "ESTABLISHING SEVERANCE TAX RATES FOR EXTENDED DEPTH AUGER MINING;"

4. Title, line 8.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "15-35-102"
Insert: "and 15-35-103"

5. Page 5, lines 18 and 19.
Following: "82-4-203." on line 18
Strike: the remainder of line 18 through "mining." on line 19

6. Page 5.
Following: line 19
Insert: "**Section 2.** Section 15-35-103, MCA, is amended to read:
"**15-35-103. Severance tax -- rates imposed.** (1) Subject to the provisions of 15-35-202 allowing a new coal production incentive tax credit, a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:
(a) After June 30, 1988, and before July 1, 1990:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	17% of value	3% of value
7,000 and over	25% of value	4% of value

(b) After June 30, 1990, and before July 1, 1991:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	13% of value	3% of value
7,000 and over	20% of value	4% of value

(c) After June 30, 1991:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining	Extended Depth Auger Mining
Under 7,000	10% of value	3% of value	7% of value
7,000 and over	15% of value	4% of value	10% of value

(2) "Value" means the contract sales price.

(3) The formula which yields the greater amount of tax in a particular case shall be used at each point on these schedules.

(4) A person is not liable for any severance tax upon 50,000 tons of the coal he produces in a calendar year, except that if he produces more than 50,000 tons of coal in a calendar year, he will be liable for severance tax upon all coal produced in excess of the first 20,000 tons.

(5) A new coal production incentive tax credit may be claimed on certain coal as provided in 15-35-202.""

Renumber: subsequent section